

APPROVED BY THE DHBC BOARD ON 2-19-2009

BOARD OF HOUSING, BUILDINGS AND CONSTRUCTION
DEPARTMENT OF HOUSING, BUILDINGS AND CONSTRUCTION
101 SEA HERO ROAD, SUITE 100
FRANKFORT, KENTUCKY 40601-5405

November 20, 2008
Minutes

Board Members Present:

Richard Moloney, Chair
Ethan Buell
Andrew Coyle
Tod Allan Griffin
David Jackson
Bill Jagoe, Jr.
David Jansing
Alfred Mattingly, Jr.
Craig Newbern
Jerry Taylor
Dale VanWinkle

Board Members Absent:

Robert Edwards
Robert R. Johnson
Charles Lewis
Jim Martin
Doug Muse
Matt Myers
Stephen J. Robinson

Staff Present:

George Mann	Ken Leathers
Tim House	Bill Swope
Dawn Bellis	Rose Baker
Gary Feck	

Guests:

Kenneth W. Bess, Electrical Clearing House, Louisville, Ky
James E. Howard, Howards Construction, Radcliff, Ky
Mike Ballard, Ballard Construction Custom Homes
Richard Stallings, Home Builders Association of Owensboro, Ky
Richard Harrison, Buechel Fire Protection District
Steve Baker, Home Builders Association of Owensboro, Ky
Shanon Rengers, Safe Kids
David Clark, Home Builders Association of Owensboro, Ky
Dennis Steier, Kentucky Chapter Electrical Inspectors
Don Iverson, NEMA
Reagen Taylor, HBAK
Robert Locker, HBAK
Juva Sizemore, HBAK
Rocky Pusateri, Elite Homes, Inc.
Richard Miles, Dogwood Homes

Ron Weaver, HBAK
Steve Hagan, HBAK
Renatta Hanson
Anthony Franklin, Franklin Electric Company, Inc.
Ron Brown, NFSA
Chuck Kavanagh, HBAK of Louisville
Scott Yates, HBAK of Louisville
Terry Chynoweth, HBAK of Louisville
John Cost
Russ Sanders, NFPA
Jack Reckner, Jeffersontown Fire Department
Beck McKinley, HBAK of Louisville
Mac Crawford, HBAK
Chris Raqu, City of Jeffersontown
Paul Long, City of Jeffersontown
Mark Churua, HBAL
Jeffrey Baird, Single Family Dwelling Advisory Committee
Kevin Oetken, HBAL
Rob Ebenenz, HBAL
George Dillon, LFUCG, Building Inspector
Jerry Welch, LFUCG
Chuck Matting, Backyard Fun Rods
Jeff Bechtold, NKBIA
Mark Martin, Boone County Building Department
Cash Olszowl, LFUCG/CAAK
Tim Ernst, HBAL
Mike Brill, HBAL
David Kean, Campbell County
Jim Vesau, Fayette County
Bill Hodger, HBA Lexington
Glen Perkins, HBAK
Jack Rivel, Irving, Kentucky
Vince Gurnthnery, Louisville Water Company
Tom Kelley, Lexington HBAL
Kyle Witale, Lexington HBAL

Chair called the meeting to order at approximately 10:00 a.m., roll called and quorum established.

Chair called for review and approval of the August 21, 2008 minutes (previously distributed). **Motion:** Mr. Jagoe moved that the minutes be approved as submitted. Motion seconded by Mr. Mattingly. **Vote:** Motion passed unanimously.

Chair announced that D. Andre Mitchell had resigned as citizen-at-large from the Board of Housing, Buildings and Construction. Craig Newbern is replacing Jim Ringo as proxy for the Attorney General's office.

Old Business: Chair stated that there was an error in the February 21, 2008 minutes and called for a motion to correct this error. **Motion:** Mr. VanWinkle moved that the correction to the February minutes be approved. Motion seconded by Mr. Jagoe. **Vote:** Motion passed unanimously.

Chair stated that the National Electric Code (NEC) had been submitted to LRC but was withdrawn in both 815 KAR 7:120 (KBC) and 815 KAR 7:125 (KRC). The Kentucky Standards of Safety (815 KAR 10:060) still contained the 2005 NEC and this would have created an inconsistency between these regulations. He stated that we needed to be consistent and he would entertain a motion to re-submit it to LRC. Dawn Bellis, General Counsel, explained that prior to LRC's review in August, it was brought to the Department's attention that going forward with the NEC would be in conflict with our Standards of Safety which had adopted the 2005 NEC. The KBC, KRC and the Standards of Safety need to be updated simultaneously. This matter has been back before both the Single Family Dwelling Advisory Committee and the Electrical Advisory Committee. **Motion:** Mr. Jagoe made the motion to stick with the 2005 until it is discussed further with the Home Builders Association. Motion seconded by Mr. Mattingly. **Vote:** Motion passed with one (1) member not voting, five (5) voting yea (Mr. Buell, Mr. Jackson, Mr. Mattingly, Mr. Griffin and Mr. Jagoe) and four (4) voting nay (Mr. VanWinkle, Mr. Coyle, Mr. Jansing and Mr. Taylor).

New Business: Chair stated that an electrical receptacle with accompanying documentation was submitted to the Board for this information. The letter is contained in board member's packet and the receptacle was placed on the table for their perusal.

Chair then submitted a change from the Agenda to allow Fire Chief Branham to submit his proposed change to Appendix P. Chair then stated that they would start with Code change No. KRC 07-11. Mr. Jagoe stated that he would like to make a motion at this time. **Motion:** Mr. Jagoe made a motion to disapprove KRC code change No. 07-11. Motion seconded by Al Mattingly. **Vote:** Motion passed with all members voting yea with the exception of Mr. Jansing who voted nay.

Chair then requested that Mr. Mann, Deputy Commissioner present the additional code changes. Mr. Mann stated that both KRC 07-12 and KBC 07-32 would need to be tabled as both the HVAC Board and the Plumbing Code Committee are required to review these changes. These two changes will be brought back before the Board after being reviewed by this Board and Committee. Mr. Mann also stated that if any person in attendance wished to speak on this particular code they would need to attend both the HVAC Board and the Plumbing Code Committee next meeting. These two entities will review these changes and make their recommendations to this Board. **Motion:** Mr. VanWinkle made a

motion to table these two code changes. Motion seconded by Mr. Griffin. **Vote:** Motion passed unanimously.

Mr. Mann then presented KRC 07-13 amending Section AG 105.2 dealing with outdoor swimming pools. **Motion:** Mr. Jagoe made a motion to approve code change No. 07-13. Motion seconded by Mr. VanWinkle. **Vote:** Motion passed unanimously.

Mr. Mann then stated that KRC 07-14 was submitted by Paul Long, City of Jeffersontown. Mr. Long stated that he had encountered a situation where a residential fire alarm system was monitored by an outside agency. The alarm, when it goes off, wakes up people six miles away. The problem is that there is one section in the code, R313.1 which required the fire alarm system to work if and including if the fire alarm panel was removed. This seemed to Mr. Long to be extreme. After meeting with the Single Family Residential Code Committee (SFRCC), everybody pretty much agreed that there are five or six words in the section that is hard to enforce. His impression was that the SFRCC was in favor of removing these six or seven words from this section of the KRC. Mr. Long's recommended change is to remove the language "the fire alarm panel is removed or" from section R313.1 of the Kentucky Residential Code. Mr. Long stated that ICC and BOCA were committees that also proposed these types of changes. Mr. Long had passed out a pamphlet that dealt with these changes and he pointed out those 2003 code changes in this pamphlet. He stated that the National Association of Homebuilders out of Washing was in favor of this code change. In his opinion this would require a 120 volt smoke detector system as well as the fire alarm system. He requested information from ICC regarding statistics where lives had been lost because the fire panel was removed. ICC did not have this information. Basically, Mr. Long would like to see dual systems as opposed to a fire alarm system replacing a 120 volt fire alarm system or smoke detectors.

Mr. Pusateri, with Elite Homes in Louisville, Kentucky stated that he got involved when his company and the City of Jeffersontown were discussing sprinklers. He stated that he had this system in his own home and they work perfectly. The difference is that his home system is not monitored. Mr. Pusateri stated that in the SFRCC it was determined that probably the language got inserted because of wireless companies that come in and put these systems in after the house is built.

Chair placed the issue back before the Board for further discussion. Mr. Jansing stated that he had a question. That he wanted to understand this, but he did not understand what Mr. Long was talking about. Is this something that would require the manual or automatic alarm system in addition to the smoke detectors or in lieu of? Mr. Long replied that if someone wanted to put in a firm alarm system, battery back up, 120 volt or 12 volt system, interconnected or connected hardwired into the system, it would allow an NFPA 72 approved residential fire alarm system in lieu of the smoke detectors. The way he interpreted the code now, it would require both or a firm alarm system that would work with the whole panel removed. Since this is the brain of the system, logically there would be no such thing. Mr. Jansing stated that he was still confused.

Mr. Pusateri stated that he may be able to clear it up. Some alarms are superior,

sophisticated, very expensive detectors. For his customers the option is they can have the smoke detectors as part of their security system or just have a security system and have the regular line voltage detectors. If they chose the smoke detectors as being part of the security system, it costs much more money. So, it is a separate panel. It's where the electric panel is located. The last thing they would do is remove the panel. Mr. Long was the only individual that said if he interpreted this by word, then he was not sure they were complying.

Michelle Wolfe, president of the Kentucky Fire and Burglar Alarm Association stated that the most important thing is to that both systems will meet code. They are both hardwired into the electrical panel. You cannot take the panel out because it is hardwired in and are permanent fixtures.

Mr. Taylor stated that it did not appear to him that this change would make any difference. He then questioned that if they were saying was that you can install the system and not connect it to the central panel it will work, but if you connect to the central panel and then remove the central panel it won't work? Ms. Wolfe replied that it was permanently hardwired in. Mr. Taylor then stated it would have to work in the event it is not connected to the central panel. Mr. Pusateri stated that to answer his question, yes, it would work. The difference is that it will not automatically call the fire department.

There was extensive discussion regarding the battery going out, homeowners being out of state for four to six months and what would happen down the road.

Mr. Pusateri stated that the keypad would alert the homeowner if the battery is low or there is a problem. He again stated that homeowners would not remove a panel after paying several thousand dollars for a system. Ms. Wolfe stated that the most important thing about the system is that it is self-diagnostic. She feels they are just offering a better system. Mr. Pusateri and Ms. Wolfe both stated they were just requesting that those seven words "removing the panel" be removed.

Motion: Mr. Jansing made a motion to approve code change No. KRC 07-14. Motion seconded by Mr. Mattingly. Chair called for any discussion. Mr. Griffin commented that he agreed with Mr. Taylor. He was not sure that this change is doing what they intended it to do. He believes that the language is already permissive and this change would make no difference. Ms. Wolfe and Mr. Pusateri referred to a central station and board members questioned each about the definition of "central station". **VOTE:** Motion passed with Mr. Griffin and Mr. Taylor voting nay.

Chair requested that Mr. Mann present code change KBC 07-33. Mr. Mann stated that this request had been in the works for approximately eight (8) years. Marker's Mark had come before this Board to request a variance based upon issues they had with warehouses they wanted to build that did not comply with the building code. This code change is specific to barrel whiskey storage facilities. This new section will grant a barrel whiskey warehouse to be a wood frame structure up to six levels, one story plus five additional levels as a mezzanine and a non-sprinkle, provided they meet all the exceptions or criteria as

approved. The structural designed must comply with or be designed by a design professional or engineer specifically licensed in Kentucky. **Motion:** Mr. Buell made a motion to approve the code change. Motion seconded by Mr. Coyle. Chair called for discussion. One member questioned as to whether or not any industry representatives were at the meeting. Mr. Buell responded that the Board had this issue before them previously and there had been some lengthy discussions. He stated that this was specific to Kentucky and Tennessee more so than any other state. **Vote:** Motion passed unanimously.

Chair requested that Gary Feck submit the application of Lexington Fayette County for expanded jurisdiction. Mr. Feck expressed his concern with the upcoming HVAC permitting that is to become effective in 2010 and 2011. He also expressed concern regarding permit fees being charged twice. He requested that the Board approve Lexington Fayette County with the contingent being that the HVAC issue be resolved. In response to an inquiry regarding expanded jurisdiction by Mr. Taylor, General Counsel responded that enable legislation gave local entities the option of having an HVAC program. This would have to be adopted by local ordinance. If they choose not to adopt a program through local ordinance, then the state would retain jurisdiction. **Motion:** Mr. Taylor made a motion to approve renewal of Lexington Fayette County for expanded jurisdiction. Motion seconded by Mr. VanWinkle. **Vote:** Motion passed unanimously.

Chair stated that he need to clarify what NEC stands for as some individuals in the room did not know what it meant. The NEC is the National Electric Code.

Russ Sanders, NFPA from the floor requested that he be allowed to speak. Chair inquired of the Board if they wanted to open up the discussion to the floor. Mr. Jansing stated that he wanted to hear what Mr. Sanders had to say. Chair allotted two (2) minutes to Mr. Sanders. Mr. Sanders stated that NEC is not a term used for the National Electrical Code or the NEC. He stated that he knew because the fire service and the electrical board (committee) had related to him that they did not know what was going on. He related that what happened was that the Electrical Board (Committee) had approved this unanimously and the Residential Advisory Committee had approved it. Also, that this Board had previously approved it unanimously. He believed that it came back on a technical consideration. He further stated that it was the homebuilders that were going to decide what electrical codes Kentucky used and stated that it was a profit organization.

Chair interrupted at this point and stated that the Residential Committee did not approve it. They voted to stay with the 2005 edition. Mr. Sanders requested that the Board please reconsider this issue and stated that they did not get feedback because no one knew what the NEC is. Chair again stated to Mr. Sanders that they did know what NEC stands for because each member had the information in their packet. Mr. Taylor stated that he believes that the current NEC should be approved. However, he had voted against it because of the two items that were in the NEC that he opposed. Mr. Sanders repeated again that the homebuilders Association was going to decide the issue. Chair reminded Mr. Sanders that his two minutes were up and that the same things were being repeated. Mr. Jansing made a motion that the board re-consider and stated that people had lost sight

of the reason for this Department being founded in the first place. He stated that one hundred and sixty five people lost their lives thirty years ago. He believes that we are sending a message to the citizens of Kentucky that we are sorry about your luck if you die in your home. Mr. Jagoe stated that Mr. Jansing was over dramatizing with continuing to bring up the thirty year old building. He stated that changes had been made and this Board has not sat on its hands for thirty years and not moved forward. Mr. Jansing stated that he would like to make a motion to re-consider. There was considerable discussion regarding whether or not a motion could be made that would overturn Mr. Jagoe's motion to stay with the 2005 NEC which had already been voted on and passed by the Board. General Counsel advised that Mr. Jagoe would need to withdraw his motion. Mr. Jagoe did not withdraw his motion and it stood as passed.

Dawn Bellis, General Counsel, submitted the legislative update. She stated that there were three legislative issues going before the General Assembly, Sprinkler inspector certification, manufactured housing, and general inspection fee proposal. The Kentucky Residential Code, 815 KAR 7:125, passed and went into effect on September 24, 2008. The Kentucky Building Code, 815 KAR 7:120, was withdrawn due to potential conflict with the Kentucky Standards of Safety. The Plumbing Code Committee has recommended approval of a plumbing medical gas opening fee change. This change will be submitted to this Board in February. Ms. Bellis stated that ICC, in their September meeting, had voted to pull residential sprinklers out of the appendix and put those into the main text of the residential code. This issue will probably be back before this Board in the coming year.

Mr. Ken Leathers submitted the Electrical Advisory Committee minutes to the Board. **Motion:** Mr. Jagoe made a motion to accept the report. Motion Seconded by Mr. VanWinkle. **Vote:** Motion passed unanimously.

Chair called for adjournment. Mr. Griffin stated that there was another issue on the Agenda that had not been discussed and he would like to hear that. Chair recognized Mr. Mann. Mr. Mann requested guidance and direction from the Board regarding interpretations of the building code. Mr. Taylor stated that he did not think that the interpretations should come back to the board. However, he thinks that people should have the right to question those interpretations and bring them to this Board. Mr. Mann stated that this would be through the appeals process and that would not change. Board did not have a problem with Mr. Mann making interpretations and stated they felt no motion was necessary as it was Mr. Mann's responsibility to make interpretations.

Chair called for a motion to adjourn. **Motion:** Mr. Jagoe made a motion to adjourn. Motion Seconded by Mr. Mattingly. **Vote:** Motion passed unanimously.

Meeting adjourned at 1:23 p.m.

Next meeting: February 19, 2009